

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

NELSEN LEO,)
)
Plaintiff,) Case No. 1:20-cv-02734
)
v.)
)
LOWE'S HOME CENTERS, LLC,)
)
Defendant.)

NOTICE OF REMOVAL

Now comes Defendant, Lowe's Home Centers, LLC ("Defendant"), by counsel and pursuant to 28 U.S.C. §1441, 28 U.S.C. §1446 and 28 U.S.C. §1332, hereby files its Notice of Removal of cause to the United States District Court for the Southern District of Indiana, Indianapolis Division, from the Marion County Superior Court, Indianapolis, Indiana, and respectfully states:

1. On August 24, 2020, Plaintiff Nelsen Leo ("Plaintiff") commenced this action against Defendant by filing his Complaint for Damages ("Complaint") in Cause No. 49D14-2008-CT-029087 in the Superior Court of Marion County, Indiana alleging that Defendant was negligent in utilizing reasonable care in the inspection and maintenance of the premise causing the Plaintiff to be struck with an object causing him to suffer serious injuries.
2. Defendant accepted service of the Summons and Complaint on or about August 28, 2020.
3. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings and orders served upon Lowe's in the State Court Action are attached hereto as **Exhibit A**.

4. In an effort to determine whether this matter meets the jurisdictional threshold under 28 U.S.C. § 1446(a), Defendant served Plaintiff with Requests for Admission on September 18, 2020. Plaintiff served Responses to Defendant's First Request for Admissions Directed to Plaintiff wherein Plaintiff denied that Plaintiff's damages arising from the incident did not exceed \$75,000.00 and would not stipulate that the amount in controversy is below \$75,000.00. Plaintiff's Responses to Defendant's First Request for Admissions is attached hereto as **Exhibit B.**

5. This action involves a controversy between citizens of different states: (a) The Plaintiff, is a citizen and resident of the State of Indiana; (b) At the time of the commencement of this action Defendant was not, and is not a citizen of the State of Indiana, being a limited liability company organized and existing under the laws of the State of North Carolina, with its principal place of business in North Carolina. Lowe's Home Centers, LLC is a manager-managed LLC with a single member, Lowe's Companies, Inc. Lowe's Company, Inc. is a North Carolina foreign corporation with its principal place of business in North Carolina.

6. That this action is one which the District Court of the United States has been given original jurisdiction pursuant to 28 U.S.C. §1332.

7. As required by 28 U.S.C. § 1446(b), this Notice of Removal is being filed within 30 days after Defendant's receipt of information advising that the claim meets the jurisdictional requirements.

8. Pursuant to 28 U.S.C. § 1332(a), this Court has original jurisdiction over this civil action in that it involves a controversy between citizens of different states and the amount in controversy as alleged by Plaintiff based on information to date exceeds \$75,000.00, exclusive of interest and costs. Thus, removal is proper in accordance with 28 U.S.C. § 1441(a).

9. Pursuant to 28 U.S.C. § 1446(d), Defendant is filing a Notice of Filing the Notice of Removal with the Clerk of the Circuit Court of Lawrence County, Indiana contemporaneously with the filing of said Notice of Removal in this Court, giving notice to all parties and the State Court. A copy of the Notice of Filing the Notice of Removal (without its exhibits) is attached hereto as **Exhibit C**.

10. Defendant has not filed any responsive pleadings in the State Court Action.

WHEREFORE, Defendant respectfully requests that this action proceed in the United States District Court for the Southern District of Indiana as a removed claim or cause of action under 28 U.S.C. §§, 1332, 1441 and 1446.

Respectfully submitted,

/s/ Pamela A. Paige
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 21, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the CM/ECF System. Parties may access this filing through the Court's system:

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